

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups; Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois B Base Income

TITLE 86: REVENUE

**PART 100
INCOME TAX**

**Section 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) -
- Effect of Combined Net Operating Loss in Computing Illinois Base Income**

- a) For purposes of computing the group's combined Illinois base income or equivalent, the group's combined net operating loss (after giving effect to inter member eliminations) can be used to offset the group's combined excess addition modifications. This combined net operating loss (after giving effect to inter member eliminations) can be used to offset the group's combined excess addition modifications. The group's combined excess addition modifications is defined as the total of all addition modifications required by IITA Section 203 (except that prescribed by IITA Section 203(b)(2)(E) and Section 203(c)(2)(E)) for all members of the group, less the total of all subtraction modifications required by IITA Section 203 for all members of the group.
- b) However, each group member allowed to carry back or forward a portion of the group's combined federal net operating loss from a year in which that combined federal net operating loss was used to offset any portion of the group's combined excess addition modifications, must take as an addition modification in the carryback and carryforward year its respective share of the NOL addition modification required by IITA Section 203(b)(2)(E) and (c)(2)(E). These respective shares shall be determined in the same manner that the share of the combined federal net operating loss of each member was determined under Section 100.2230(b) of this Part. The amount of the NOL addition modification actually required to be shown in the carryback or carryforward year by any member of the group shall, however, be limited to the amount of loss actually carried to such year by the group member.

1) **EXAMPLE 1:**

A) **FACTS:**

- i) For 1981, Corporation A filed a separate federal income tax return showing a federal taxable income of \$35,000 and an Illinois income tax return reflecting Illinois liability calculated from the \$35,000 federal taxable income on a non-combined apportionment basis. For 1984, Corporation A filed a separate federal income tax return showing a net operating loss of \$100,000 and an Illinois income tax

return reflecting that Corporation A was a member of the same unitary business group as three other corporations -- B, C and D -- each of which was formed on the first day of the 1984 taxable year. The federal taxable incomes (NOL) for the Illinois income tax purposes and the addition and subtraction modifications of Corporations A, B, C and D for 1984 are as follows:

	Fed. Taxable Income (NOL) For Ill. Income Tax Purposes	Total Add. Modifi- cations	Total Sub- traction	Excess Add. Modifi- cations	Modifi- cations
Corp. A	(100,000)	65,000	40,000	25,000	
Corp. B	60,000	20,000	5,000	15,000	
Corp. C	(30,000)	0	15,000	(15,000)	
Corp. D	<u>20,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Tot.	(50,000)	85,000	60,000	25,000	

- ii) Shortly after filing its 1984 return, Corporation A filed an amended federal income tax return for 1981 claiming on appropriate refund based on the carryback of the \$100,000 NOL from 1984 against the 1981 taxable income. The refund was paid shortly after the claim was filed and Corporation A is now engaged in preparing an appropriate parallel claim for refund of Illinois income tax liability under 86 Ill. Adm. Code 100.2200.

B) ANALYSIS AND CONCLUSION:

- i) The group's combined federal net operating loss for 1984 is (50,000) which will be divided between Corporations A and C (the loss members) for purposes of carryback and carryforward:

$$\begin{aligned}\text{Corp. A: } & \$100/\$130 \times (\$50,000) = (\$38,462) \\ \text{Corp. C: } & \$30/\$130 \times (\$50,000) = (\$11,538)\end{aligned}$$

- ii) The group's excess addition modifications for 1984 will be divided between the loss members in the same proportion as the group's combined federal net operating loss:

$$\begin{aligned}\text{Corp. A: } & \$100/\$130 \times \$25,000 = (\$19,230) \\ \text{Corp. C: } & \$30/\$130 \times \$25,000 = (\$5,770)\end{aligned}$$

- iii) Corporation A's claim for refund of Illinois income tax for 1981 is premised on the NOL carryback of \$38,462 from 1984. The

amended return which embodies that claim must also reflect an addition modification of \$19,230.

2) EXAMPLE 2:

A) FACTS:

- i) Same facts as in Example 1 except that Corporation A has a federal net operating loss in 1984 of \$65,000 instead of \$100,000. Therefore, the federal taxable incomes (NOL) for Illinois income tax purposes and the addition and subtraction modifications of Corporations A, B, C and D for 1984 are as follows:

	Fed. Taxable Income (NOL) For Ill. Income Tax Purposes	Total Add. Modifica- tions	Total Sub- traction Modifica- tions	Excess Add. Modifi- cations
Corp. A	(65,000)	65,000	40,000	25,000
Corp. B	60,000	20,000	5,000	15,000
Corp. C	(30,000)	0	15,000	(15,000)
Corp. D	<u>20,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Tot.	(15,000)	85,000	60,000	25,000

- ii) Shortly after filing its 1984 return, Corporation A filed an amended federal income tax return for 1981 claiming an appropriate refund based on the carryback of the \$65,000 NOL from 1984 against the 1981 taxable income. The refund was paid shortly after the claim was filed and Corporation A is now engaged in preparing an appropriate amended Illinois income tax return for 1981 under Section 100.2200 of this Part.

B) ANALYSIS AND CONCLUSION:

- i) The group's combined federal net operating loss for 1984 is (\$15,000) and the group's excess addition modifications equal \$25,000, resulting in a combined 1984 Illinois base income of \$10,000, i.e., (15,000) plus \$25,000. The group's combined federal net operating loss for 1984 will be divided between Corporations A and C (the loss members) for purposes of carryback and carryforward of Illinois net operating loss:

$$\text{Corp. A: } \$65/\$95 \times (\$15,000) = (\$10,263)$$

$$\text{Corp. C: } \$30/\$95 \times (\$15,000) = (\$4,737)$$

- ii) The amount of the group's excess addition modifications for 1984 that were offset by the group's combined federal net operating loss for 1984 will be divided between the loss members in the same proportion as the group's combined federal net operating loss is divided to compute each loss member's respective share of the 1981 NOL addition modification required by IITA Section 203(b)(2) namely:

$$\text{Corp. A: } \$65/\$95 \times \$15,000 = \$10,263$$

$$\text{Corp. C: } \$30/\$95 \times \$15,000 = \$4,737$$

- iii) Corporation A's amended Illinois income tax for 1981 would reflect an NOL carryback of \$10,263 from 1984 and an addition modification of \$10,263.

(Source: Amended at 24 Ill. Reg. 10593, effective July 7, 2000)